

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
SEVEN PUBLIC SAFETY AGENCIES IN THE	)	FCC File Nos. 0000941858 and
NEW YORK METROPOLITAN AREA	)	0001523313 (City of Bayonne, New
	)	Jersey), 0001687496 (County of Bergen,
Proposal to Use Part 22 Paging Frequencies	)	New Jersey), 0001535270 (Borough of
Pursuant to Section 337(c) of the Communications	)	Fort Lee, New Jersey), 0001628636
Act of 1934, as Amended and Section 1.925 of the	)	(Jersey City, New Jersey Police
Commission's Rules to Operate Public Safety	)	Department), 0001593425 (Melville, New
Communications Systems	)	York Fire District), File Nos. 0001196273
	)	and 0001196472 (County of Somerset,
	)	New Jersey), and 0001728433 (Syosset,
	)	New York Fire District)

**ORDER**

**Adopted: July 30, 2004**

**Released: August 10, 2004**

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. We have before us the above-captioned applications, waiver requests, and a joint proposal (Proposal) by seven public safety agencies in the New Jersey/New York area. The Proposal encompasses the use of unassigned Part 22 channels, the deletion of certain channels currently licensed to several of the public safety agencies so that such channel(s) may be assigned to another agency, and the deletion of frequencies from pending requests so that a channel may be licensed to another agency. Specifically, on April 14, 2004, the City of Bayonne, New Jersey (Bayonne), the County of Bergen, New Jersey (Bergen), the Borough of Fort Lee, New Jersey (Fort Lee), the Jersey City, New Jersey Police Department (Jersey City), the Melville, New York Fire District (Melville), the County of Somerset, New Jersey (Somerset) and the Syosset, New York Fire District (Syosset) (collectively referred to as the public safety agencies) jointly filed the Proposal seeking to augment the pending individual applications of each agency to use frequencies designated under Part 22 of the Commission's Rules as paging control and trunked mobile channels to support the communications requirements of the public safety officers of each agency.<sup>1</sup> The Proposal seeks to consolidate the pending applications into an overall plan that would resolve each application.<sup>2</sup> For the reasons stated herein, we approve the Proposal and grant the waiver requests,

<sup>1</sup> Proposal of the City of Bayonne, New Jersey, the County of Bergen, New Jersey, the Borough of Fort Lee, New Jersey, the Jersey City, New Jersey Police Department, the Melville, New York Fire District, the County of Somerset, New Jersey and the Syosset, New York Fire District to Use Part 22 Paging Frequencies and to Transfer Frequencies For Purposes of Improving Each Agency's Public Safety Communications System (filed Apr. 14, 2004) (Proposal).

<sup>2</sup> *Id.* at 2.

subject to the public safety agencies filing the necessary amendments or applications to reflect the assignments in the Proposal so that the pending applications can be processed consistent with this *Order*.

## II. BACKGROUND

2. *Bayonne*. Bayonne is an urban center with a population of 65,000 and is located just north of Staten Island across the Newark Bay from Port Richmond, New York.<sup>3</sup> Bayonne played a significant role in the regional response to the events of September 11, 2001, but deficiencies in Bayonne's public safety radio system and lack of interoperability with nearby jurisdictions hampered the effectiveness and efficiency of its response.<sup>4</sup> Bayonne states that its current radio system is no longer able to serve its police and fire departments effectively. Bayonne cites the following deficiencies in its system: (1) The system uses four pairs of frequencies in the 150 MHz band and non-trunked, analog technology. Bayonne states that its current channel assignments are insufficient to handle the high volume of radio traffic.<sup>5</sup> (2) Bayonne's system is also plagued by dead spots.<sup>6</sup> In several areas of Bayonne, radio signals cannot penetrate, and thus transmissions are not received. According to Bayonne, the dead spots cannot be rectified by increasing transmitter power or antenna height due to potential co-channel interference to nearby licensees. (3) The greater New York area suffers from severe frequency congestion. Bayonne experiences co-channel interference on its channels, making communications difficult and unreliable.<sup>7</sup> (4) Bayonne notes that its system is outdated and has no interoperability capabilities. Bayonne states that as a 911 Public Safety Answering Point, it handles overflow 911 traffic from the City of Secaucus, New Jersey. Bayonne believes that interoperability capability with Secaucus would increase the efficiency of this process.<sup>8</sup>

3. After researching alternative spectrum options, Bayonne has concluded that the only prudent and viable course of action is to replace its existing VHF system with a trunked, digital UHF system.<sup>9</sup> The proposed system would form a city-wide radio network, linking all police, fire, emergency medical, city, school, and hospital telecommunications services.<sup>10</sup> The proposed system would permit interoperability with police and fire departments of New York City, the Port Authority, Jersey City, Newark, and the Hudson County Prosecutors Office, among others.<sup>11</sup> Further, the proposed system would address the problems of the existing system by expanding capacity, eradicating dead spots, permitting direct dispatch functions, and improving communications reliability by moving out of the congested VHF band.<sup>12</sup> The digital system would also provide access to enhanced technical capabilities such as encryption and mobile data communications.<sup>13</sup> Bayonne states that these benefits are in the best interest

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<sup>3</sup> FCC File No. 0001523313, Request for Waiver, filed by the City of Bayonne on November 20, 2003 (Bayonne 2003 Request) at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 2-3. Bayonne employs 245 police officers and approximately 200 firefighters to help fight crime and fulfill other public safety needs.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 9.

<sup>13</sup> *Id.*

of the community and serve the public interest as well as the Commission's long-standing efforts to improve the quality and reliability of communications by and among public safety entities.<sup>14</sup> As the sought frequencies are not designated for public safety communications, Bayonne seeks a waiver of Sections 22.501, 22.621, 90.303, and such other of the Commission's Rules<sup>15</sup> as may be necessary to grant the applications, pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act) or, alternatively, Section 1.925 of the Commission's Rules.<sup>16</sup>

4. *Bergen.* Bergen is New Jersey's largest county, containing 70 municipalities.<sup>17</sup> Many have their own law enforcement and public safety agencies, which use radio communications systems in the 470-512 MHz band.<sup>18</sup> Bergen is home to several New York area sports arenas, major transportation facilities, industrial plants and several corporate headquarters.<sup>19</sup> Responding to the September 11, 2001 attack, Bergen commenced a substantial capital project to modernize its communications systems to provide all county agencies with the ability to communicate with one another and to promote interoperability between Bergen's municipalities.<sup>20</sup> Bergen seeks use of frequency pair 470/473.2375 MHz to fulfill this goal. As the pair is not designated for public safety use, Bergen seeks a waiver of Sections 22.7, 22.501, 22.621, 22.651, and 90.311 of the Commission's Rules,<sup>21</sup> pursuant to Section 337(c) of the Act or, alternatively, Section 1.925 of the Commission's Rules.<sup>22</sup>

5. *Fort Lee.* Fort Lee stands at the western edge of the Hudson River in one of the most populated parts of the New York metropolitan area.<sup>23</sup> Fort Lee's crossroads location and large commuter presence impose significant daily challenges regarding its public safety responsibilities.<sup>24</sup> On December 31, 2002, we granted a waiver request by Fort Lee, pursuant to Section 337(c) of the Act, to operate a public safety communications system on certain Part 22 paging frequencies.<sup>25</sup> Fort Lee proposes to

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<sup>14</sup> *Id.*

<sup>15</sup> 47 C.F.R. §§ 22.501, 22.621, 90.303. Section 22.501 defines the scope of the licensing and operation of the public paging and radiotelephone service. Section 22.621 requires the use of point-to-multipoint operation on six of the requested frequencies. Section 90.303 provides frequencies available for assignment to land mobile systems, referring to Section 90.311, which excludes frequencies in the 470-512 MHz range from assignment to private land mobile radio applicants if the frequencies are allocated for services under Part 22.

<sup>16</sup> Bayonne 2003 Request at 1.

<sup>17</sup> FCC File No. 0001687496, Request to Transfer and Application and Waiver Request, filed by the County of Bergen on April 19, 2004 (Bergen Request) at 5-6.

<sup>18</sup> *Id.* at 6.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> 47 C.F.R. §§ 22.7, 22.501, 22.621, 22.651, 90.311. Section 22.7 limits eligibility to operate on Part 22 frequencies to common (*i.e.*, commercial) carriers. Section 22.651 requires the use of trunked mobile operations on the other five frequencies requested. *But see* 47 C.F.R. § 22.655 (The FCC is redesignating public mobile channels in the 450-470 MHz range from trunked mobile operation to point-to-multipoint operation as the demand for trunked mobile service decreases). Sections 22.501, 22.621 and 90.311 are described in n. 29 *supra*.

<sup>22</sup> Bergen Request at 5.

<sup>23</sup> *See* FCC File No. 0000618828, Waiver Request, filed by Borough of Fort Lee on October 5, 2001 (Fort Lee 2001 Request) at 2.

<sup>24</sup> *Id.*

<sup>25</sup> *See* Borough of Fort Lee, New Jersey, *Order*, 17 FCC Rcd 26296 (WTB PSPWD 2002) (*Fort Lee Order*). The *Order* granted Fort Lee use of frequencies 470.0375 MHz/473.1875 MHz, 470.1125 MHz/473.1625 MHz, (continued....)

construct a new trunked radio system that would provide pervasive coverage throughout the community.<sup>26</sup>

The system would have six channel pairs dedicated to voice, drawn from unassigned Part 22 frequencies, channels on Bayonne's pending applications, and channels currently licensed to Jersey City.<sup>27</sup> As the requested frequencies are not designated for public safety use, Fort Lee seeks a waiver of Sections 22.7, 22.501, 22.621, 22.651, and 90.311 of the Commission's Rules, pursuant to Section 337(c) of the Act or, alternatively, Section 1.925 of the Commission's Rules.<sup>28</sup>

6. *Jersey City.* Jersey City, which is located on the west bank of the Hudson River and has a growing population of 250,000, is at the crossroads of major transportation systems that serve over 600,000 commuters daily.<sup>29</sup> Its 841 police officers and 564 fire fighters and emergency medical technicians face considerable difficulty in obtaining quality wireless communications.<sup>30</sup> On April 11, 2003, we granted a waiver request by Jersey City, pursuant to Section 337(c) of the Act, to operate a public safety communications system on certain Part 22 paging frequencies.<sup>31</sup> Jersey City proposes to construct a new trunked radio system that would provide pervasive coverage throughout the community.<sup>32</sup>

The system would have eight channel pairs and a mobile channel dedicated to voice, drawn from unassigned Part 22 frequencies, channels identified in Bayonne, Fort Lee, Melville, and Somerset's pending applications, and channels currently licensed to Fort Lee.<sup>33</sup> As the requested frequencies are not designated for public safety use, Fort Lee seeks a waiver of Sections 22.7, 22.501, 22.621, 22.651, and 90.311 of the Commission's Rules, pursuant to Section 337(c) of the Act or, alternatively, Section 1.925 of the Commission's Rules.<sup>34</sup>

7. *Melville.* The Melville Fire District is the taxing district that supports the Melville Volunteer Fire Department, which provides firefighting and emergency medical services to Melville, New York.<sup>35</sup> Melville is located in Suffolk County on Long Island, New York, in the southwest corner of the town of

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470.2625 MHz/473.2625 MHz, and 476.2625 MHz/479.2625 MHz. Fort Lee maintains that representations made in the Fort Lee 2001 Request remain in effect and are made part of the current request. FCC File No. 0001535270, Request to Transfer and Application and Waiver, filed by the Borough of Fort Lee on March 3, 2004 (Fort Lee 2004 Request) at 6.

<sup>26</sup> Fort Lee 2004 Request at 6-7.

<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.* at 5.

<sup>29</sup> See FCC File No. 0000472841, Request for Waiver, filed by Jersey City Police Department on May 24, 2001, (Jersey City 2001 Request) at 2.

<sup>30</sup> FCC File No. 0001628636, Request to Transfer and Application and Waiver, filed by the Jersey City Police Department on March 5, 2004, (Jersey City Request) at 7.

<sup>31</sup> See Jersey City Police Department, *Order*, 18 FCC Rcd 6576 (WTB PSPWD 2003) (*Jersey City Order*). The *Order* granted Jersey City use of frequencies 470.0500 MHz/473.1750 MHz, 470.2500 MHz/473.2000 MHz, 470.2750 MHz/473.2750 MHz, 476.2750 MHz/479.2750 MHz, and 476.0875 MHz/479.2250 MHz. Jersey City maintains that representations made in the Jersey City 2001 Request remain in affect and are made part of the current request. Jersey City 2004 Request at 6.

<sup>32</sup> Jersey City 2004 Request at 7.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 5.

<sup>35</sup> FCC File No. 0001593425, Request for Waiver, filed by Melville Fire District on January 23, 2004 (Melville Request) at 2.

Huntington.<sup>36</sup> Melville has a mix of residential, commercial, and industrial areas that bring the workday population over four hundred thousand.<sup>37</sup> Melville's growth and expansion have required the construction of four new fire stations over the past five years, to respond to an increasing number of calls for assistance.<sup>38</sup> To fulfill the communications requirements of its one hundred firefighters and emergency medical technicians, Melville has operated 25 mobile units, 88 portable units and 140 pagers on frequency pair 471/474.2875 MHz, under Station WIG703 for the past twenty years.<sup>39</sup> Melville states that its single UHF frequency pair is inadequate to meet its current needs, which include two-way communications between a dispatcher and mobile units, paging operations, and on-the-scene communications between mobile units.<sup>40</sup> Melville requests two additional frequency pairs to handle multiple incidents, handle increasing number of alarms, and provide coverage throughout the fourteen-square-mile community and reach trauma hospital centers up to twenty-nine miles away.<sup>41</sup> As the requested frequencies are not designated for public safety use, Melville seeks a waiver of Sections 22.621 and 22.651 of the Commission's Rules, pursuant to Section 337(c) of the Act or, alternatively, Section 1.925 of the Commission's Rules.<sup>42</sup>

8. *Somerset.* Somerset encompasses 305 square miles that includes 21 boroughs and townships, and a population of 302,000 residents.<sup>43</sup> Somerset currently maintains an antiquated public safety communications system consisting of a mixture of frequency bands and requiring the use of several different types of radio units.<sup>44</sup> This mixture has prevented effective interoperability between Somerset and local public safety entities.<sup>45</sup> Use of Somerset's current facilities is limited by co-channel and adjacent channel interference from neighboring users in the New York and Philadelphia areas.<sup>46</sup> As a result, communications are unsuccessful during routine dispatch calls or heightened emergency situations.<sup>47</sup> Further, the current radio facilities suffer from dead spots and inadequate building penetration.<sup>48</sup> Somerset is the licensee of Station WPPB311, Somerville, New Jersey, operating on several Part 22 frequencies for public safety communications.<sup>49</sup> Somerset seeks to expand use of frequencies on the authorization for Station WPPB311 to countywide use.<sup>50</sup> The Proposal adds to

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 3.

<sup>39</sup> *Id.* at 2-3. Melville also uses several 46 MHz frequencies under Station KEE488, but these are dedicated to a countywide system. *Id.* at 3.

<sup>40</sup> *Id.* at 3-4.

<sup>41</sup> *Id.* at 4.

<sup>42</sup> *Id.* at 1.

<sup>43</sup> See FCC File Nos. 0001196273 and 0001196472, Request for Waiver, dated December 23, 2002, filed by the County of Somerset on February 12, 2003, (Somerset 2003 Request) at 1.

<sup>44</sup> *Id.* at 2.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 2-3.

<sup>48</sup> *Id.* at 3.

<sup>49</sup> Station WPPB311 was licensed on October 1, 1999.

<sup>50</sup> FCC File Nos. 0001196273 and 0001196472, Supplement to Request for Waiver, filed by the County of Somerset on November 10, 2003, at 1.

Somerset's request a frequency licensed to Jersey City and three unassigned frequencies. Somerset seeks a waiver of Sections 22.7, 22.653, and such other rules as may be necessary to grant the applications, pursuant to Section 337(c) of the Act or, alternatively, Section 1.925 of the Commission's Rules.<sup>51</sup>

9. *Syosset*. Syosset, located near the north shore of Long Island, New York, is the parent agency to the all-volunteer Syosset Fire Department serving the communities of Syosset, Woodbury, part of Jericho, and the villages of Oyster Bay Cove, Laurel Hollow, and Muttontown.<sup>52</sup> On August 18, 2003, we granted a waiver request by Syosset pursuant to Section 337(c) of the Act, to operate a public safety communications system on certain Part 22 paging frequencies.<sup>53</sup> The new, trunked 12.5 kHz bandwidth system includes five standard frequency pairs and a single voice paging frequency currently designated for non-public safety use. When implemented, the system, as currently envisioned, would support 300 mobiles, with 150 mobiles utilized by the District's firefighters and the remainder utilized by four neighboring fire and rescue districts in a consolidated system. Under the Proposal, Syosset would modify Station WPYJ816 by deleting frequency 479.1625 MHz, increasing its emission to 25 kHz on paging channel 470.1375 MHz, and adding unassigned frequency 479.0375 MHz.<sup>54</sup>

10. On May 28, 2004, we released a *Public Notice* seeking comment on the Proposal.<sup>55</sup> No comments were received, and the public safety agencies filed a reply comment urging the Commission's expeditious and positive consideration of the Proposal.<sup>56</sup> On June 29, 2004, we released a second *Public Notice* seeking comment on amendments to the Proposal filed by Bayonne and Somerset.<sup>57</sup> No comments or reply comments were received.

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<sup>51</sup> Somerset 2003 Request at 1.

<sup>52</sup> FCC File No. 0001314863, Request for Waiver, filed by Syosset Fire District on May 16, 2003 (Syosset 2003 Request) at 2.

<sup>53</sup> See Syosset Fire District, *Memorandum Opinion and Order*, 18 FCC Rcd 16635 (WTB PSPWD 2003). The *Memorandum Opinion and Order* granted Syosset use of frequencies 476.0375/479.1625 MHz, 476/479.1375 MHz, 476/479.1875 MHz, 476/479.2375 MHz, 476/479.2875 MHz, and 470.1375 MHz.

<sup>54</sup> FCC File No. 0001728433, Description of Application to Modify WPYJ816, filed by the Syosset Fire District on May 7, 2004 (Syosset Modification) at 1. Syosset requests increasing its emission to 25 kHz on paging channel 470.1375 MHz because it contemplates employing paging receivers that operate at 25 kHz bandwidth. Syosset notes that there are no nearby 12.5 kHz adjacent channel licensees and no new co-channel licensees have been granted since Syosset was granted on the channel. *Id.* at 1-2.

<sup>55</sup> See Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by the City of Bayonne, New Jersey, the County of Bergen, New Jersey, the Borough of Fort Lee, New Jersey, the Jersey City, New Jersey Police Department, the Melville, New York Fire District, the County of Somerset, New Jersey and the Syosset, New York Fire District, *Public Notice*, 19 FCC Rcd 9873 (WTB PSCID 2004). Comments were due June 7, 2004, and reply comments were due June 14, 2004.

<sup>56</sup> See Reply Comment of the City of Bayonne, New Jersey, the County of Bergen, New Jersey, the Borough of Fort Lee, New Jersey, the Jersey City, New Jersey Police Department, the Melville, New York Fire District, the County of Somerset, New Jersey and the Syosset, New York Fire District (filed June 14, 2004).

<sup>57</sup> See Wireless Telecommunications Bureau Seeks Comment on Amendments by the City of Bayonne, New Jersey, and the County of Somerset, New Jersey to Proposal Submitted by Seven Public Safety Agencies, *Public Notice*, DA 04-1921 (WTB PSCID rel. June 29, 2004). Comments were due July 7, 2004, and reply comments were due July 14, 2004. See also City of Bayonne New Jersey, Application to Amend Pending License Application, FCC File Numbers 0000941858 and 0001523313, prepared by SSI Services, Inc., dated June 10, 2004 (Bayonne June 2004 Amendment); Somerset County, New Jersey, Application to Amend Pending License Application, FCC File Numbers 0001196273 and 0001196472, prepared by SSI Services, Inc., dated June 10, 2004 (Somerset June 2004 Amendment).

### III. DISCUSSION

#### A. Section 337(c) of the Act

11. Section 337(c) of the Act provides that we must waive any rules necessary to authorize entities providing public safety services to operate on unassigned non-public safety spectrum, if we make five specific findings:

- public safety spectrum is not immediately available;
- the proposed use will not cause harmful interference to protected spectrum users;
- public safety use of the unassigned frequencies is consistent with public safety spectrum allocations in the geographic area;
- the unassigned frequencies have been allocated for non-public safety use for more than two years; and
- grant of the application is consistent with the public interest.<sup>58</sup>

12. Under Section 337(f) of the Act, public safety services are services whose principal purpose is to protect the safety of life, health, or property, provided by governmental entities whose primary mission is the provision of such services, or by non-governmental entities authorized by such a governmental entity, and that are not made commercially available to the public.<sup>59</sup> Based on the record before us, we find that Bayonne, Bergen, Fort Lee, Jersey City, Melville, Somerset, and Syosset are entities providing public safety services.<sup>60</sup> We therefore move to examining whether the public safety agencies meet the statutory requirements supporting a waiver under Section 337(c) of the Act.

13. *Immediate availability of public safety spectrum.* We previously determined in connection with requests from Fort Lee,<sup>61</sup> Jersey City,<sup>62</sup> and Syosset<sup>63</sup> that no other public safety spectrum is immediately available in this area. The seven public safety agencies contend that this is still the case.<sup>64</sup> Based on the record before us, we concur with the public safety agencies' contentions and find that no other public safety spectrum is immediately available to satisfy the requested public safety service use.

14. *Technical feasibility of requested use without causing harmful interference.* By way of background, the public safety agencies' proposed frequencies are in the 470-480 MHz band, which is

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<sup>58</sup> See 47 U.S.C. § 337(c).

<sup>59</sup> See 47 U.S.C. § 337(f).

<sup>60</sup> See Nassau County Police Department, *Memorandum Opinion and Order*, 17 FCC Rcd 14252, 14258 ¶ 11 (2002).

<sup>61</sup> See *Fort Lee Order*, 17 FCC Rcd at 26300 ¶ 9.

<sup>62</sup> See *Jersey City Order*, 18 FCC Rcd at 6581 ¶ 9.

<sup>63</sup> See Syosset Fire District, *Memorandum Opinion and Order*, 18 FCC Rcd 16635, 16639 ¶ 8 (WTB PSPWD 2003) (*Syosset Order*).

<sup>64</sup> See Bayonne 2003 Request at 12; Bergen Request at 7-8; Fort Lee Request at 8; Jersey City Request at 8-9; Melville Request at 8-11; Somerset 2003 Request at 7-8; Syosset 2003 Request at 10-12.

allocated on a geographically-shared basis with television broadcast stations.<sup>65</sup> Sections 90.307 and 90.309 of our rules set forth the limitations on land mobile maximum effective radiated power, antenna height, and geographic location to provide adequate interference protection to television stations.<sup>66</sup> Operation in the New York metropolitan area requires that 50 dB of protection be provided to television stations on channel 14 and 40 dB of protection be provided to television stations on channel 15.<sup>67</sup> Based on the record before us<sup>68</sup> and our analysis thereof, we conclude that the public safety agencies' proposed systems would protect all television stations that are entitled to protection from harmful interference.<sup>69</sup>

15. In the New York metropolitan area, the Commission regulates the requested frequencies under Part 22 of its Rules.<sup>70</sup> Specifically, the Commission has designated the 470 MHz and 476 MHz frequencies for point-to-multipoint transmitters used to support transmitters that provide public mobile service, *e.g.*, paging control.<sup>71</sup> The Commission designated the 473 MHz and 479 MHz frequencies for trunked mobile operations, although the Commission has redesignated channels in this range to point-to-multipoint operation as demand decreases for trunked mobile operations.<sup>72</sup> Based on the record before us and our analysis thereof, we conclude that the public safety agencies' proposed systems would protect existing public safety land mobile licensees and paging licensees from harmful interference.<sup>73</sup> In addition, we have examined Syosset's request to increase the bandwidth on frequency 470.1375 MHz from 12.5 kHz to 25 kHz, and determined that it will not cause harmful interference due to the absence of adjacent channel licensees and applicants. Accordingly, we believe the operational and technical parameters of the proposed systems meet the Commission's requirements for interference protection to

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<sup>65</sup> Frequencies in the 470-512 MHz band, normally assigned to UHF Television channels 14 through 20, were made available for land mobile radio use in 11 cities in the early 1970s in the "UHF-TV Sharing" proceeding. *See* Land Mobile Use of TV Channels 14 through 20, Docket No. 18261, *Report and Order*, 23 FCC 2d 325 (1970).

<sup>66</sup> 47 C.F.R. §§ 90.307, 90.309.

<sup>67</sup> *Id.*

<sup>68</sup> *See* FCC File No. 000941858, Analysis of Frequency Availability, prepared by Vogel Consulting Group, Inc., dated April 2002 at 7-12 (Bayonne Vogel Analysis); Bergen Request at 8; FCC File No. 0001535270, Letter dated February 27, 2004 from Emil Vogel, Vogel Consulting Group, Inc. to FCC, Public Safety and Critical Infrastructure Division [Fort Lee]; FCC File No. 0000618828, Analysis of Frequency Availability, prepared by Vogel Consulting Group, Inc., dated August 2001 at 5-6 (Fort Lee Vogel Analysis); FCC File No. 0001628636, Amended Analysis of Frequency Availability, prepared by Vogel Consulting Group, Inc., dated May 10, 2002 at 4-5 (Jersey City Vogel Analysis); Melville Request at 11-12 and Appendix B; Integrated Radio Design Report with Part 22 Frequency Availability and Related Channel Use Study and Appendices, prepared by SSI Services, Inc. at 9 (Somerset SSI Report); FCC File No. 0001314863, Analysis of Frequency Availability, prepared by Vogel Consulting Group, Inc., dated April 2003 at 7 (Syosset Vogel Analysis).

<sup>69</sup> We observe that the public safety agencies' proposed operations protect all TV stations identified in the Commission's publication identified in Section 90.307(e) of our Rules, "TV Stations to be Considered in the Preparation of Applications for Land Mobile Facilities in the Band 460-512 MHz." *See* Private Land Mobile Operations in the 470-512 MHz Band, *Public Notice*, No. 20291 (rel. Oct. 22, 1991).

<sup>70</sup> 47 C.F.R. § 22.1 *et. seq.*

<sup>71</sup> *See* 47 C.F.R. §§ 22.621, 22.627.

<sup>72</sup> *See* 47 C.F.R. §§ 22.621, 22.651, 22.655.

<sup>73</sup> *See* Proposal at 3-5, 8-12; Bayonne Vogel Analysis at 7-12; FCC File No. 0001523313, Technical Feasibility Report, prepared by SSI Services, Inc., dated November 14, 2003 (Bayonne SSI Analysis); Bayonne June 2004 amendment; Bergen Request at 8; Fort Lee Vogel Analysis at 6-7; Jersey City Vogel Analysis at 6-11; Melville Request at 10; Somerset SSI Report at 9; Syosset Modification at 1.



incumbent public safety licensees. Further, we note that the public safety agencies have obtained concurrence from potentially affected paging licensees.<sup>74</sup> We therefore find that public safety agencies' proposed systems are technically feasible and will not cause harmful interference to protected spectrum users.

16. *Public safety use of the frequencies is consistent with other public safety spectrum allocations in the geographic area.* We previously determined that public safety use of the 470-480 MHz band is consistent with other public safety allocations in the New York/New Jersey area.<sup>75</sup> We therefore find that the use of the unassigned frequencies as set forth in the Proposal for the provision of the proposed public safety services is consistent with other allocations for the provision of such services in the geographic area for which the applications are made. Moreover, because other governmental agencies in the New York metropolitan area are using these frequencies, we believe that granting the request will promote interoperability capability among the public safety community in that region.

17. *The frequencies have been allocated for non-public safety use for more than two years.* The Commission allocated these frequencies for paging use in 1994.<sup>76</sup> Thus, these frequencies have been allotted for their present use for more than two years.

18. *Granting these applications<sup>77</sup> is consistent with the public interest.* Based upon the record in this proceeding, we believe the public safety agencies' filings demonstrate that they need access to additional spectrum in order to promote effective public safety communications. We believe that it would further the public interest by affording the public safety agencies access to additional radio spectrum in order to allow them to safely protect the lives and property in their care. Indeed, Section 1 of the Act defines one of the Commission's over-arching purposes as "promoting safety of life and property through the use of ... radio communication."<sup>78</sup> Additionally, we find it significant that granting the instant request will promote interoperability capability among the public safety community in the New York metropolitan area. Moreover, grant of the Proposal will resolve several of the public safety agencies' applications that had been pending due to the possibility of co-channel or adjacent channel interference with each other or existing paging licensees. The resolution and grant of the applications will fulfill the public safety agencies' needs for more channel capacity and allow otherwise unused spectrum to be used for public safety communications. The Proposal promotes intense and efficient use of this scarce spectrum through frequency reuse where geographic separation permits and a systematic frequency assignment approach of standard, three-megahertz channel pairing.

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<sup>74</sup> See Letter dated November 11, 2003 from Joseph F. Mullin, Vice President of Engineering, Arch Wireless, to Emil Vogel, Vogel Consulting Group, Inc. (Bayonne proposes to operate on frequency 476.1750 MHz, adjacent to Arch Wireless Station KPD955, Blooming Grove, New York, on frequency 476.1625 MHz); Letter dated June 4, 2004 from Joseph F. Mullin, Vice President of Engineering, Arch Wireless, to Emil Vogel, Vogel Consulting Group, Inc. (Jersey City proposes to operate on frequency 476.1500 MHz, adjacent to Arch Wireless Station KPD955 on frequency 476.1625 MHz).

<sup>75</sup> *Syosset Order*, 18 FCC Rcd at 18640 ¶ 10; *Jersey City Order*, 18 FCC Rcd at 6582 ¶ 11; *Fort Lee Order*, 17 FCC Rcd at 26301 ¶ 11.

<sup>76</sup> See Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket 92-115, *Report and Order*, 9 FCC Rcd 6513 (1994).

<sup>77</sup> As discussed *infra*, some of the pending applications will be granted in part and dismissed in part, in order to reflect the Proposal.

<sup>78</sup> 47 U.S.C. § 151.

## B. Implementing the Proposal

19. We note that several of the pending applications do not reflect the Proposal because the public safety agencies are awaiting approval of the Proposal before filing amendments or new applications. The following sections each contain two tables. The first table shows the frequency assignments as set forth in the Proposal. The second table shows what actions we will take regarding each frequency on the agency's pending application(s), as well as the amendments necessary to reflect the Proposal. In addition, we note, as an initial matter, two of the public safety agencies need to file modification applications to delete frequencies from existing station licenses. Against this backdrop, we conclude that it would be more prudent and efficient for all of the pending applications to be held in abeyance until all necessary amendments and applications have been filed.

### 1. City of Bayonne

20. The Proposal, as amended,<sup>79</sup> sets forth that Bayonne would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

Base Frequency	Present status	Mobile Frequency	Present status
470.0375 MHz	WPWS499 (Fort Lee), 0001535270 (Fort Lee)	473.0375 MHz	0001628636 (Jersey City), 0001523313 (Bayonne)
470.1750 MHz	0001523313 (Bayonne)	473.1750 MHz	WPXI593 (Jersey City), 0001628636 (Jersey City)
470.2875 MHz	0001523313 (Bayonne)	473.2875 MHz	0001523313 (Bayonne)
476.1250 MHz	0001523313 (Bayonne)	479.1250 MHz	0001523313 (Bayonne)
476.1750 MHz	0000941858 (Bayonne)	479.1750 MHz	0000941858 (Bayonne)
476.2000 MHz	0001523313 (Bayonne)	479.2000 MHz	0001523313 (Bayonne), 0000941858 (Bayonne)
476.2500 MHz	0001523313 (Bayonne)	479.2500 MHz	0001523313 (Bayonne)

We will dismiss Jersey City's application 0001628636 in part with respect to frequency 473.0375 MHz, so that it can be used by Bayonne. Fort Lee and Jersey City will be expected to file applications to modify their licenses for Stations WPWS499 and WPXI593, respectively, to allow Bayonne's use of frequencies 470.0375 MHz and 473.1750 MHz.

21. As outlined in the table below, we will grant Bayonne's applications in part and dismiss them in part. In order to implement the Proposal, Bayonne must amend at least one of its applications to add frequencies designated for its use in the Proposal but not currently requested.

<sup>79</sup> See Bayonne June 2004 Amendment.

Bayonne proposal	Bayonne 0001523313	Bayonne 0000941858	Action under Proposal
Base frequency	Base frequency	Base frequency	
470.0375 MHz			Amendment to either application required
470.1750 MHz	470.1750 MHz		Grant
470.2875 MHz	470.2875 MHz		Grant
476.1250 MHz	476.1250 MHz		Grant
476.1750 MHz		476.1750 MHz	Grant
476.2000 MHz	476.2000 MHz		Grant
476.2500 MHz	476.2500 MHz		Grant
	470.0625 MHz		Dismiss
	470.1875 MHz		Dismiss
	470.2375 MHz		Dismiss
		476.0500 MHz	Dismiss
		476.1500 MHz	Dismiss
Mobile frequency	Mobile frequency	Mobile frequency	
473.0375 MHz	473.0375 MHz		Grant
473.1750 MHz			Amendment to either application required
473.2875 MHz	473.2875 MHz		Grant
479.1250 MHz	479.1250 MHz		Grant
479.1750 MHz		479.1750 MHz	Grant
479.2000 MHz	479.2000 MHz	479.2000 MHz	Grant
479.2500 MHz	479.2500 MHz		Grant
	473.0125 MHz		Dismiss
	473.0875 MHz		Dismiss
	473.1125 MHz		Dismiss
		479.1500 MHz	Dismiss

## 2. County of Bergen

22. The Proposal sets forth that Bergen would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

Base Frequency	Present status	Mobile Frequency	Present status
470.2375 MHz	0001523313 (Bayonne), 0001593425 (Melville), 0001687496 (Bergen)	473.2375 MHz	0001687496 (Bergen), 0001593425 (Melville)

That portion of Bayonne's application 0001523313 requesting frequency 470.2375 MHz will be dismissed to allow Bergen's use of the frequency, but the frequency pair 470/473.2375 will be shared with Melville on the basis of adequate distance separation and mutual concurrence.

23. As outlined in the table below, we will grant Bergen's application.

<b>Bergen proposal</b>	<b>Bergen 0001687496</b>	<b>Action under Proposal</b>
Base frequency	Base frequency MHz	
470.2375 MHz	470.2375	Grant
<b>Mobile frequency</b>	<b>Mobile frequency</b>	
473.2375 MHz	473.2375 MHz	Grant

### 3. Borough of Fort Lee

24. The Proposal sets forth that Fort Lee would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

<b>Base Frequency</b>	<b>Present status</b>	<b>Mobile Frequency</b>	<b>Present status</b>
---	---	473.0125 MHz	0001523313 (Bayonne)
470.0500 MHz	0001628636 (Jersey City), WPXI593 (Jersey City)	473.0500 MHz	0001535270 (Fort Lee)
470.1875 MHz	0001523313 (Bayonne)	473.1875 MHz	WPWS499 (Fort Lee), 0001535270 (Fort Lee)
470.2750 MHz	0001628636 (Jersey City), WPXI593 (Jersey City)	473.2750 MHz	0001628636 (Jersey City), WPXI593 (Jersey City)
476.0500 MHz	0000941858 (Bayonne), 0001535270 (Fort Lee)	479.0500 MHz	0001535270 (Fort Lee)
476.1000 MHz	0001535270 (Fort Lee)	479.1000 MHz	0001535270 (Fort Lee)
---	---	479.1375 MHz	0001535270 (Fort Lee), WPYJ816 (Syosset)
476.2625 MHz	WPWS499 (Fort Lee), 0001535270 (Fort Lee)	479.2625 MHz	WPWS499 (Fort Lee), 0001535270 (Fort Lee)

We will dismiss Bayonne's application 0001523313 in part with respect to frequencies 470.1875 MHz and 473.0125 MHz, and its application 0000941858 with respect to frequency 476.0500 MHz, so that the frequencies can be used by Fort Lee. Jersey City will be expected to file an application to modify its license for Station WPXI593 to allow Fort Lee's use of frequencies 470.0500 MHz and 470/473.2750 MHz. Frequency 479.1375 MHz would be shared with Syosset on the basis of adequate geographic separation and mutual concurrence.

25. As outlined in the table below, we will grant Fort Lee's application in part and dismiss it in part.<sup>80</sup> In order to implement the Proposal, Fort Lee must amend its application to add frequencies designated for its use in the Proposal but not currently requested. In addition, Fort Lee must file an application to modify its license for Station WPWS499 to delete frequencies 470.0375, 470.1125, 470.2625, 473.1625, and 473.2625 MHz so that other public safety entities may be licensed on these frequencies, consistent with the Proposal.

<sup>80</sup> Fort Lee's application, FCC File No. 0001535270, contains requests for two frequencies, 482.0500 and 482.1000 MHz, which are allocated for Part 90 use. These requests shall be processed in accordance with the Commission's rules.

<b>Fort Lee proposal</b>	<b>Fort Lee 0001535270</b>	<b>Action under Proposal</b>
<b>Base frequency</b>	<b>Base frequency</b>	
470.0500 MHz		Amendment required
470.1875 MHz		Amendment required
470.2750 MHz		Amendment required
476.0500 MHz	476.0500 MHz	Grant
476.1000 MHz	476.1000 MHz	Grant
476.2625 MHz	476.2625 MHz	Grant
	470.0375 MHz	Dismiss
	470.1125 MHz	Dismiss
	470.2625 MHz	Dismiss
<b>Mobile frequency</b>	<b>Mobile frequency</b>	
473.0500 MHz	473.0500 MHz	Grant
473.1875 MHz	473.1875 MHz	Grant
473.2750 MHz		Amendment required
479.0500 MHz	479.0500 MHz	Grant
479.1000 MHz	479.1000 MHz	Grant
479.2625 MHz	479.2625 MHz	Grant
473.0125 MHz		Amendment required
	473.1625 MHz	Dismiss
	473.2625 MHz	Dismiss

#### 4. Jersey City Police Department

26. The Proposal, as amended,<sup>81</sup> sets forth that Jersey City would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

<sup>81</sup> FCC File No. 0001628636, Amendment to Application and Waiver Request, dated May 6, 2004, filed by the Jersey City Police Department on May 14, 2004. The amendment added a request for frequency 476.2250 MHz.

Base Frequency	Present status	Mobile Frequency	Present status
470.0625 MHz	0001523313 (Bayonne), 0001593425 (Melville)	473.0625 MHz	0001593425 (Melville)
470.1125 MHz	0001535270 (Fort Lee), WPWS499 (Fort Lee)	473.1125 MHz	0001523313 (Bayonne)
---	---	473.2125 MHz	0001628636 (Jersey City)
470.2625 MHz	0001535270 (Fort Lee), WPWS499 (Fort Lee)	473.2625 MHz	0001535270 (Fort Lee), WPWS499 (Fort Lee)
476.0250 MHz	0001628636 (Jersey City)	479.0250 MHz	0001628636 (Jersey City)
476.0875 MHz	WPXI593 (Jersey City), 0001628636 (Jersey City)	479.0875 MHz	0001196273 (Somerset), 0001196472 (Somerset)
476.1500 MHz	0000941858 (Bayonne)	479.1500 MHz	0000941858 (Bayonne)
476.2250 MHz	0001628636 (Jersey City)	479.2250 MHz	WPXI593 (Jersey City), 0001628636 (Jersey City)
476.2750 MHz	WPXI593 (Jersey City), 0001628636 (Jersey City)	479.2750 MHz	WPXI593 (Jersey City), 0001628636 (Jersey City)

We will dismiss Bayonne's application 0001523313 in part with respect to frequencies 470.0625 MHz and 473.1125 MHz, and its application 0000941858 with respect to frequency pair 476/479.1500 MHz; Melville's application 00001593425 with respect to frequency pair 470/473.0625 MHz; Fort Lee's application 00001535270 with respect to frequency pair 470/473.2625 MHz; and Somerset's applications 0001196273 and 0001196472 with respect to frequency 470.0875, so that the frequencies can be used by Jersey City. Fort Lee will be expected to file an application to modify its license for Station WPWS499 to allow Jersey City's use of frequencies 470.1125 MHz and 470/473.2625 MHz.

27. As outlined in the table below, we will grant Jersey City's application in part and dismiss it in part.<sup>82</sup> In order to implement the Proposal, Jersey City must amend its application to add frequencies designated for its use in the Proposal but not currently requested. In addition, Jersey City must file an application to modify its license for Station WPXI593 to delete frequencies 470.0500, 470.2750, 473.1750, 473.2000, and 473.2750 MHz so that other public safety entities may be licensed on these frequencies, consistent with the Proposal.

<sup>82</sup> Jersey City's application, FCC File No. 0001628636, contains a request for a frequency, 482.0250 MHz, which is allocated for Part 90 use. This request shall be processed in accordance with the Commission's rules.

<b>Jersey City proposal</b>	<b>Jersey City 0001628636</b>	<b>Action under Proposal</b>
<b>Base frequency</b>	<b>Base frequency</b>	
470.0625 MHz		Amendment required
470.1125 MHz		Amendment required
470.2625 MHz		Amendment required
476.0250 MHz	476.0250 MHz	Grant
476.0875 MHz	476.0875 MHz	Grant
476.1500 MHz		Amendment required
476.2250 MHz	476.2250 MHz	Grant
476.2750 MHz	476.2750 MHz	Grant
	470.0500 MHz	Dismiss
	470.2500 MHz	Dismiss
	470.2750 MHz	Dismiss
	473.0375 MHz (D)	Grant request to delete
<b>Mobile frequency</b>	<b>Mobile frequency</b>	
473.0625 MHz		Amendment required
473.1125 MHz		Amendment required
473.2625 MHz		Amendment required
479.0250 MHz	479.0250 MHz	Grant
479.0875 MHz		Amendment required
479.1500 MHz		Amendment required
479.2250 MHz	479.2250 MHz	Grant
479.2750 MHz	479.2750 MHz	Grant
473.2125 MHz	473.2125 MHz	Grant
	473.1750 MHz	Dismiss
	473.2000 MHz	Dismiss
	473.2750 MHz	Dismiss
	476.0375 MHz (D)	Grant request to delete

## 5. Melville Fire District

28. The Proposal sets forth that Melville would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

<b>Base Frequency</b>	<b>Present status</b>	<b>Mobile Frequency</b>	<b>Present status</b>
470.1625 MHz	0001593425 (Melville)	473.1625 MHz	0001535270, WPWS499 (Fort Lee), 0001593425 (Melville)
470.2375 MHz	0001523313 (Bayonne), 0001593425 (Melville), 0001687496 (Bergen)	473.2375 MHz	0001593425 (Melville), 0001687496 (Bergen)

We will dismiss Bayonne's application 0001523313 in part with respect to frequency 470.2375 MHz so that the frequency can be used by Melville. Frequency pair 470/473.2375 MHz will be shared with Bergen on the basis of distance separation and mutual concurrence. Fort Lee will be expected to file an application to modify its license for Station WPWS499 to allow Melville's use of frequency 473.1625

MHz.

29. As outlined in the table below, we will grant Melville's application in part and dismiss it in part.

<b>Melville proposal</b>	<b>Melville 0001593425</b>	<b>Action under Proposal</b>
<b>Base frequency</b>	<b>Base frequency</b>	
470.1625 MHz	470.1625 MHz	Grant
470.2375 MHz	470.2375 MHz	Grant
	470.0625 MHz	Dismiss
<b>Mobile frequency</b>	<b>Mobile frequency</b>	
473.1625 MHz	473.1625 MHz	Grant
473.2375 MHz	473.2375 MHz	Grant
	473.0625 MHz	Dismiss

## 6. County of Somerset

30. The Proposal, as amended<sup>83</sup> and corrected,<sup>84</sup> sets forth that Somerset would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

<b>Base Frequency</b>	<b>Present status</b>	<b>Mobile Frequency</b>	<b>Present status</b>
---	---	473.0250 MHz	0001196273, 0001196472 (Somerset)
470.1375 MHz	WPPB311 (Somerset)	---	---
---	---	473.2000 MHz	0001628636 (Jersey City), WPXI593 (Jersey City)
---	---	473.2250 MHz	0001196273, 0001196472 (Somerset)
476.0125 MHz	WPPB311, 0001196273, 0001196472 (Somerset)	479.0125 MHz	WPPB311, 0001196273, 0001196472 (Somerset)
476.0625 MHz	WPPB311, 0001196273, 0001196472 (Somerset)	479.0625 MHz	WPPB311, 0001196273, 0001196472 (Somerset)
---	---	479.1125 MHz	0001196273 (Somerset), 0001196472 (Somerset)
---	---	479.2375 MHz	WPPB311, 0001196273, 0001196472 (Somerset), WPYJ816 (Syosset)
---	---	479.2875 MHz	WPPB311, 0001196273, 0001196472 (Somerset), WPYJ816 (Syosset)

<sup>83</sup> See Somerset June 2004 Amendment.

<sup>84</sup> See FCC File Numbers 0001196273 and 0001196472, Somerset County, New Jersey, Application to Amend Pending License Application, prepared by SSI Services, Inc., dated June 30, 2004 and filed July 1, 2004 (Somerset July 2004 Amendment). This filing corrects errors in the frequency list section of the Somerset June 2004 amendment.



Jersey City will be expected to file an application to modify its license for Station WPXI593 to allow Somerset's use of frequency 473.2000 MHz. Frequencies 479.2375 and 479.2875 MHz are currently shared with Syosset and would continue to be shared on the basis of adequate geographic separation and mutual concurrence.

31. As outlined in the table below, we will grant Somerset's applications in part and dismiss them in part. In order to implement the Proposal, Somerset must amend its applications to add the frequency designated for its use in the Proposal but not currently requested.

<b>Somerset proposal</b>	<b>Somerset 0001196273</b>	<b>Somerset 0001196472</b>	<b>Action under Proposal</b>
<b>Base frequency</b>	<b>Base frequency</b>	<b>Base frequency</b>	
470.1375 MHz	470.1375 MHz	470.1375 MHz	Grant
476.0125 MHz	476.0125 MHz	476.0125 MHz	Grant
476.0625 MHz	476.0625 MHz	476.0625 MHz	Grant
<b>Mobile frequency</b>	<b>Mobile frequency</b>	<b>Mobile frequency</b>	
479.0125 MHz	479.0125 MHz	479.0125 MHz	Grant
479.0625 MHz	479.0625 MHz	479.0625 MHz	Grant
473.0250 MHz	473.0250 MHz	473.0250 MHz	Grant
473.2000 MHz			Amendment to both applications required
473.2250 MHz	473.2250 MHz	473.2250 MHz	Grant
479.1125 MHz	479.1125 MHz	479.1125 MHz	Grant
479.2375 MHz	479.2375 MHz	479.2375 MHz	Grant
479.2875 MHz	479.2875 MHz	479.2875 MHz	Grant
	473.0625 MHz (D)	473.0625 MHz (D)	Grant request to delete
	479.0875 MHz	479.0875 MHz	Dismiss

## 7. Syosset Fire District

32. The Proposal sets forth that Syosset would be authorized on the frequencies listed in the table below, which provides the status of each frequency.

<b>Base Frequency</b>	<b>Present status</b>	<b>Mobile Frequency</b>	<b>Present status</b>
470.1375 MHz	WPYJ816 (Syosset)	---	---
476.0375 MHz	WPYJ816 (Syosset)	479.0375 MHz	0001728433 (Syosset)
476.1375 MHz	WPYJ816 (Syosset)	479.1375 MHz	WPYJ816 (Syosset), 0001535270 (Fort Lee)
476.1875 MHz	WPYJ816 (Syosset)	476.1875 MHz	WPYJ816 (Syosset)
476.2375 MHz	WPYJ816 (Syosset)	479.2375 MHz	WPYJ816 (Syosset), WPPB311, 0001196273, 0001196472 (Somerset)
476.2875 MHz	WPYJ816 (Syosset)	479.2875 MHz	WPYJ816 (Syosset), WPPB311, 0001196273, 0001196472 (Somerset)

Frequencies 479.2375 and 479.2875 MHz are currently shared with Somerset and would continue to be shared on the basis of adequate geographic separation and mutual concurrence. Similarly, frequency 479.1375 MHz would be shared with Fort Lee on the basis of adequate geographic separation and mutual

concurrence.

33. As outlined in the table below, we will grant Syosset's application.

Syosset proposal	Syosset 0001728433	Action under Proposal
<b>Base frequency</b>	<b>Base frequency</b>	
470.1375 MHz (change to wideband)	470.1375 MHz (change to wideband)	Grant
<b>Mobile frequency</b>	<b>Mobile frequency</b>	
479.0375 MHz	479.0375 MHz	Grant

#### IV. CONCLUSION

34. We find that the public safety agencies' requests satisfy the criteria set forth under Section 337(c) of the Act to obtain grant of the waiver requests associated with the applications, consistent with the Proposal, as amended, to operate public safety communications systems on frequencies in the 470-480 MHz band. In addition, we find that the Proposal presents an acceptable plan for resolving the pending applications and waiver requests. Therefore, we grant the public safety agencies' requests for waiver of Sections 22.7, 22.501, 22.621, 22.651, 90.303, and 90.311 of our Rules,<sup>85</sup> and approve the Proposal, as amended, subject to the public safety agencies filing the necessary amendments or applications to reflect the assignments in the Proposal so that the pending applications can be processed consistent with this *Order*. We will take no action on any of the pending applications until Bayonne, Fort Lee, Jersey City, and Somerset amend their applications to reflect the assignments set forth in the Proposal, and Fort Lee and Jersey City file applications to modify their licenses for Stations WPWS499 and WPXI593, respectively, to be consistent with the Proposal, the applicable Commission Rules, and this *Order*.

#### V. ORDERING CLAUSES

35. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 337(c), the requests for waiver, as amended, of Sections 22.7, 22.501, 22.621, 22.651, 90.303, and 90.311 of the Commissions Rules, 47 C.F.R. §§ 22.7, 22.501, 22.621, 22.651, 90.303, and 90.311, associated with the captioned applications filed by the City of Bayonne, New Jersey, the County of Bergen, New Jersey, the Borough of Fort Lee, New Jersey, the Jersey City, New Jersey Police Department, the Melville, New York Fire District, the County of Somerset, New Jersey and the Syosset, New York Fire District for public safety services as requested in the captioned applications **ARE GRANTED**.

36. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), the Proposal of the City of Bayonne, New Jersey, the County of Bergen, New Jersey, the Borough of Fort Lee, New Jersey, the Jersey City, New Jersey Police Department, the Melville, New York Fire District, the County of Somerset, New Jersey and the Syosset, New York Fire District to Use Part 22 Paging Frequencies and to Transfer Frequencies For Purposes of Improving Each Agency's Public Safety Communications System, filed on April 14, 2004, and subsequent amendments, **IS APPROVED**.

<sup>85</sup> In view of the conclusion that grants of waivers for the public safety agencies are warranted under Section 337(c) of the Act, we need not reach the question of whether the public safety agencies' waiver requests should be granted under Section 1.925(b)(3) of the Commission's Rules.

37. **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i) and 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 337(c), FCC File Nos. 0000941858, 0001523313, 0001687496, 0001535270, 0001628636, 0001593425, 0001196273, 0001196472, and 0001728433 **SHALL BE PROCESSED** consistent with this *Order* and the Commission's Rules.

38. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Critical Infrastructure Division  
Wireless Telecommunications Bureau